IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

OP.No. 22565 of 1999(J)

PETITIONER:
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1. **SREE ANAND REFINERIES,**
   PILATHOOR, PUTHUNAGARAM,
   PALAKKAD, REP. BY ITS MANAGING DIRECTOR
   A. VISWANAHAN NAIR.

2. **A. VISWANATHAN NAIR,**
   MANAGING DIRECTOR,
   SREE ANAND REFINERIES
   AND ANAND OIL EXTRACTIONS,
   COCHIN.

BY ADV. SRI.M.RAMESH CHANDER,
ADV. SRI.M.VIJAYAKUMAR.

RESPONDENTS:
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1. **LABOUR COURT, CALICUT, KERALA.**

2. **V. PARTHAN, S/O. VELAYUDHAN,**
   VEMBRA HOUSE, NANTHIYODE POST,
   PIN - 678 534.

3. **MANAGING PARTNER, SALAR SOLVENT EXTRACTIONS LTD.,**
   PUTHUNAGARAM, PALAKKAD.

BY ADV. SRI.N.N.SUGUNAPALAN,
GOVERNMENT PLEADER SRI. P.N. SANTHOSH.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 08/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 37265/1999 IN O.P. NO. 22565/1999

DISMISSED

08/10/2007. **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE LETTER SENT BY THE K.F.C. TO THE DIST. LABOUR OFFICER, PALAKKAD DTD. 20/07/1996.

EXT.P.2: COPY OF THE ORDER IN C.P. 1/1997 DT. 30/06/1998 PASSED BY THE R.1.

EXT.P.3: COPY OF THE NOTICE ISSUED TO THE PETITIONERS BY THE DIST. LABOUR OFFICER ON 22/07/1999.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

P.A. TO JUDGE.

prv.

Thottathil B. Radhakrishnan, J.

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O.P.No.22565 of 1999-J

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Dated this the 8th day of October, 2007.

JUDGMENT

I am satisfied that notice was appropriately issued in the last known address of the third respondent and that has been returned. It is declared that notice on the third respondent has been duly served. Service complete.

2. Ext.P3 is only a communication issued by the District Labour Officer consequent on Ext.P2 order of the Labour Court on a claim petition under Section 33-C(2) of the Industrial Disputes Act, 1947. Under such circumstances, the District Labour Officer, Palakkad, the authority which issued Ext.P3, is impleaded as additional respondent, being an executing authority in terms of Ext.P2 order.

3. Ext.P1 shows that the Kerala Financial Corporation, a creditor of the third respondent had taken over the fixed assets of the industrial unit of the third respondent and such take over of

physical possession in terms of Section 29 of the State Financial Corporations Act, 1951 led to a sale on “as is where is” condition to the writ petitioner No.1 of which the second respondent was the Managing Director.

4. The aforesaid facts would show that Ext.P2 order on the claim petition based on I.D.No.63 of 1993 is one against the first respondent in those proceedings and cannot bind the second respondent therein because the second respondent is not a transferee of the undertaking but is only an auction purchaser of the assets, which were taken possession of by the KFC in terms of Section 29 of the SFC Act. The jural relationship between the second respondent and third respondent does not get transferred by that process to the writ petitioners and therefore the petitioners cannot be mulcted with the responsibility to satisfy Ext.P2 claim petition. Under such circumstances, the direction issued by the additional fourth respondent Labour Officer calling upon the writ petitioners to satisfy the order on the claim petition is without jurisdiction. The decision contained in Ext.P3 is therefore quashed.

5. However, the second respondent worker has to get his benefit under Ext.P2 order. This has to be necessarily from the hands of the third respondent on behalf of the first respondent, namely Salar Solvent Extractions Ltd. The additional fourth respondent is therefore directed to ensure that all appropriate steps are taken for immediate recovery of all amounts due under Ext.P2 from the third respondent and made available to the second respondent workman at the earliest.

Writ petition is allowed. No costs.

Thottathil B.Radhakrishnan,
Judge.

sl.

Thottathil B. Radhakrishnan, J.

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O.P.No.22565 of 1999-J

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JUDGMENT

Dated:8-10-2007